

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

ZAHMEEN Z.W. MANUEL,

Plaintiff,

v.

OFFICER UNKNOWN HANNING, et al.,

Defendants.

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No. 4:21-cv-01428-JAR

MEMORANDUM AND ORDER

This matter is before the Court on a document filed by plaintiff Zahmeen Z.W. Manuel that has been construed as a motion to voluntarily dismiss his case. (Docket No. 7). For the reasons discussed below, plaintiff will be directed to show cause as to why the motion should not be granted, and the case dismissed without prejudice.

Background

Plaintiff is a self-represented litigant who is currently incarcerated at the St. Louis County Justice Center in Clayton, Missouri. On December 6, 2021, he filed a 42 U.S.C. § 1983 action naming Officer Hanning, Lieutenant Rolland, and Captain McClelland as defendants. (Docket No. 1). He also filed a motion for leave to proceed in forma pauperis. (Docket No. 2).

On February 17, 2022, the Court granted plaintiff's motion for leave to proceed in forma pauperis, and reviewed his complaint under 28 U.S.C. § 1915. (Docket No. 5). Based on that review, the Court dismissed the claim against Officer Hanning without prejudice. As to Lieutenant Rolland and Captain McClelland, plaintiff was ordered to file an amended complaint against them in their individual capacities regarding plaintiff's claims of excessive force. He was sent a copy of the Court's prisoner civil rights complaint form, and given thirty days in which to comply.

On February 28, 2022, the Court received plaintiff's motion, which states in whole: "I concede this suit because it is too difficult for me to understand. Thank you for your time [and] consideration. Neither can I afford it."

Discussion

As noted above, plaintiff has filed a motion to voluntarily dismiss his case, alleging that he cannot afford it, and that it is too difficult for him to understand. With regard to plaintiff's contention that he cannot afford this case, the Court notes that plaintiff has already been granted leave to proceed in forma pauperis. As to his assertion that the suit "is too difficult for [him] to understand," the Court observes that plaintiff has already demonstrated that he can adequately present his claims. In addition, the Court notes that he has been sent a copy of the Court's prisoner civil rights complaint form to aid him in filing an amended complaint.

Before granting the motion, the Court will give plaintiff the opportunity to show cause why his case should not be dismissed, and to submit the previously-ordered amended complaint. He will be given thirty days in which to comply. Failure to comply will result in the dismissal of this action without prejudice and without further notice.

Accordingly,

IT IS HEREBY ORDERED that plaintiff shall show cause in writing and within **thirty (30) days** of the date of this order as to why the Court should not dismiss this case without prejudice.

IT IS FURTHER ORDERED that if plaintiff fails to show cause in writing and within **thirty (30) days** of the date of this order as to why the Court should not dismiss this case without prejudice, the Court will dismiss this action without prejudice and without further notice.

IT IS FURTHER ORDERED that the Clerk of Court shall send to plaintiff a copy of the Court's order of February 17, 2022 (Docket No. 5).


IT IS FURTHER ORDERED that the Clerk of Court shall send to plaintiff a copy of the Court's prisoner civil rights form.

IT IS FURTHER ORDERED that plaintiff shall file an amended complaint on the Court form as to Lieutenant Rolland and Captain McClelland in their individual capacities within **thirty (30) days** of the date of this order.

IT IS FURTHER ORDERED that if plaintiff fails to file an amended complaint on the Court form as to Lieutenant Rolland and Captain McClelland in their individual capacities within **thirty (30) days** of the date of this order, the claims against them will be dismissed without prejudice and without further notice.

IT IS FURTHER ORDERED that upon receipt of plaintiff's amended complaint as to Lieutenant Rolland and Captain McClelland, the Court will review the claims under 28 U.S.C. § 1915.

Dated this 8th day of March, 2022.



JOHN A. ROSS
UNITED STATES DISTRICT JUDGE